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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,621

04/02/2004

Kia Silverbrook

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

EXAMINER

MOSSER, ROBERT E

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/815,621	Applicant(s) SILVERBROOK ET AL.	
	Examiner ROBERT MOSSER	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32 and 40-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/26/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement entered 9/26/2008 has been considered. A copy of the cited statement(s) including the notation indicating its respective consideration is attached for the Applicant's records.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **32** and **40-43** are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman (US 5,080,364) in view of Silverbrook et al (US 6,457,883) in further view of Stangl (US 7,197,642).

Claim **32**: Seidman teaches competition system including the use of machine readable coded data printed on the label of a product and the verification of competition entry through the presentation of an award (*Seidman* Figure 2). The system of Seidman further teaches capturing interaction data from a barcode reading device indicating the reading of a barcode and affecting the entry into a competition through transmission of data to central data processing center responsive thereto (*Seidman* Figure 1, 2; Col 2:26-32, 2:61-63, 6:5-16; 35:).

Seidman is silent regarding the incorporation and transmission of a sensing device ID and product identifiers, the related communication device of Silverbrook teaches the inclusion and transmission of a application alias ID, user ID, pen ID, and UPC product identifiers (*Silverbrook* Elm 65; Col 35:34-36; 37:22-30). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the transmission of n application alias ID, user ID, pen ID, and UPC product identifiers as taught by Silverbrook in the product entry of Seidman in order to determine the location, individual, and product associated with the entry and/or user specific context for the exchange of information.

The combination of Seidman and Silverbrook is silent regarding the association of actual and temporary communication addresses and the transformation between the temporary addresses and actual addresses to enable communication. However, the reference of Stangl teaches the utilization of temporary communications addresses and the transformation between the temporary addresses and actual addresses to enable communication to conceal the actual communication address of one party from another

(*Stangl* Col 2:44-62). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the temporary communications address and address translation features of *Stangl* in the combination of *Seidman* and *Silverbrook* in order to enable communication to conceal the actual communication address of one party from another.

Claims 40-41: The combination of *Seidman*, *Silverbrook*, and *Stangl* does not explicitly teach limiting the number of messages communicated from the application to the user to a predetermined number of messages, however figure 2 of *Seidman* would implicitly allow for a predetermined maximum number of messages from the application to the user based on the flow chart presented therein. Hence this feature is understood as being implicitly provided for by the *Seidman* reference in the combination of *Seidman*, *Silverbrook*, and *Stangl*. As an alternative to the preceding and without any directed or inferred concession thereof it would have been additionally obvious to one of ordinary skill in the art at the time of invention to employ a predetermined limit the number of messages presented to the user from an application in the invention of *Seidman* because as disclosed by *Seidman* only a finite number of messages are required to practice the invention and such would additionally limit the amount of bandwidth utilized by a user for a given session.

Claim 42: As cited above *Seidman* teaches the utilization of the UPC of a product will provide them with game entry, as presently and broadly claimed the details of the purchase would include the purchase itself required to obtain the UPC for game entry.

Response to Arguments

Applicant's arguments with respect to claims **32** and **40-42** have been considered but are moot in view of the new ground(s) of rejection. Specifically the claims are rejected under the combination of Seidman, Stangl, and Silverbrook as presented above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT MOSSER whose telephone number is (571)272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

/R. M./
Examiner, Art Unit 3714